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- 1 b. Requests by Trustee for documents and information are not superseded by the filing of an
2 amended or modified plan. LRBP Rule 2084-10(b).
- 3 c. Trustee objects to any reduction in the Plan duration or payout in a proposed Stipulated
4 Order Confirming Plan unless an amended or modified plan is filed (using Local Form
2084-4, Chapter 13 Plan) and noticed out.
- 5 d. Trustee requires that any proposed Order Confirming Plan state: "The Plan and this Order
6 shall not constitute an informal proof of claim for any creditor."
- 7 e. Trustee requires that any Stipulated Order Confirming Plan state: "Debtor is instructed to
8 remit all payments on or before the stated due date each month. Debtor is advised that
9 when payments are remitted late, additional interest may accrue on secured debts, which
10 may result in a funding shortfall at the end of the Plan term. Any funding shortfall must
11 be cured before a discharge can be entered. This requirement is effective regardless of
12 plan payment suspensions, waivers or moratoriums, and must be included in any
13 Stipulated Order Confirming."
- 14 f. At the time of confirmation, Debtor is required to certify, via language in the Stipulated
15 Order confirming, that they are current on all payments that have come due on any
16 Domestic Support Orders since the filing of their case and that they are current on all
17 required tax return filings [pursuant to 11 U.S.C. Sec 1325(a)(8), (9)].
- 18 g. Debtor or Debtor's Attorney is required to provide copies of their federal and state income
19 tax returns for each year for the duration of the Plan to Trustee. Tax returns must be
20 forwarded **within 30 days after the returns have been filed**. All Personally Identifiable
21 Information must be redacted prior to submission. Tax returns may be submitted to
22 mail@dcktrustee.com. This requirement is to be included in the Stipulated Order
23 Confirming the plan. Failure to submit tax returns may result in the dismissal of the
24 Chapter 13 case.
- 25 h. If Debtors received a tax refund larger than \$1,000.00 for the tax period preceding the
26 filing of this case, the continuation of such deduction would constitute a diversion of
income that would otherwise be available to creditors. Accordingly Trustee requires that
Debtors (i) adjust payroll tax deductions to prevent over withholding, (ii) amend Schedule
I to reflect the reduced withholding; (ii) submit to Trustee two consecutive paystubs to
verify said reduction; and (iv) increase the plan payments in the Stipulated Order
Confirming.
- i. If Debtors are in default (in any amount) on their first mortgage the plan must propose
mortgage conduit payments. If the plan does not propose a mortgage conduit, Trustee
objects to confirmation. This may be resolved by amending the plan or seeking an order
from the court excusing compliance with the conduit requirement. L.R.B.P. Rule 2084-
4(b).

1 **Specific Requirements:**

- 2 1. Tax Refunds. If Debtor receives a tax refund in excess of \$1,000.00 during the
3 pendency of this case, said refund must be turned over to Trustee. The proposed
4 stipulated order on confirmation needs to specifically provide that such refund is a
5 SUPPLEMENTAL payment under the plan.
- 6 2. The Order Confirming Plan Must Contain the Following Language Related to
7 Treatment of General Unsecured Claims: "General Unsecured Claims. Such claims
8 shall be paid pro rata the balance of payments under the Plan and any unsecured debt
9 balance remaining unpaid at the end of the Plan may be discharged as provided in 11
10 U.S.C. § 1328(a)."
- 11 3. Filed Proofs of Claim. To date Trustee has noted that the following Creditors have
12 filed proofs of claim that differ from the treatment proposed in the Chapter 13
13 Plan. **Trustee objects to the treatment of these proofs of claim. This objection**
14 **may be resolved by amending the secured/priority treatment to match the proofs**
15 **of claim in the Stipulated Order Confirming the Plan or by filing an objection**
16 **followed by an order: AZDOR, IRS, NEVADA WEST FINANCIAL and WELLS**
17 **FARGO HOME MORTGAGE.** This objection extends to proofs of claim, if any,
18 filed after the date of this evaluation/objection which seek treatment different from
19 that provided for in the proposed Chapter 13 Plan.
- 20 4. AZDOR Proof of Claim 1. Trustee objects to confirmation as AZDOR has filed a
21 priority proof of claim in the amount of \$1,675.00. The proof of claim has estimated
22 amounts owed due to the non-filing of Debtor's 2016 tax returns. This objection may
23 be resolved by filing Debtor's 2016 tax returns and having the proof of claim amended
24 or by filing an objection to the proof of claim followed by an order.
- 25 5. IRS Proof of Claim 2. Trustee objects to confirmation as the IRS has filed a priority
26 proof of claim in the amount of \$10,199.86. The proof of claim has estimated
amounts owed due to the non-filing of Debtor's 2016-2017 tax returns. This objection
may be resolved by filing Debtor's 2016-2017 tax returns and having the proof of
claim amended or by filing an objection to the proof of claim followed by an order.
6. Wells Fargo Home Mortgage Proof of Claim 6. Trustee objects to confirmation
because Creditor has filed a secured proof of claim in the amount of \$13,170.95 for
home arrears on Debtor's 1st mortgage and Debtor's plan proposes to pay \$12,780.71
in home arrears. This objection may be resolved by addressing the proof of claim and
the amounts filed by Creditor and have order confirming match the claim or file an
objection to the proof of claim followed by an order.

- 1 7. Moratorium in Conduit Plan. In the event that the mortgage lender charges late fees or
2 additional interest on payments made on post-petition arrearages, a lump sum payment
3 may be required at the end of the plan in order to cure all post-petition arrearages
4 accrued which were not paid through the plan payments. See paragraph (e) above.
- 5 8. Ongoing Mortgage Information. Trustee objects to confirmation as Trustee mailed out
6 the conduit mortgage information letter to Debtor on April 26, 2018. To date Trustee
7 has not received the conduit mortgage information requested from Debtor. This
8 objection may be resolved by Debtor submitting the required information to Trustee.
- 9 9. Tax Returns that have not been filed. Trustee objects to confirmation as the Court is
10 unable to confirm this plan under the provisions of 11 U.S.C. §§ 1308 and 1325(a)(9).
11 This objection may be resolved by filing the respective returns for assessment of the
12 tax liabilities so that the feasibility of the plan can be certain. **Debtors have 30 days to**
13 **have the tax authorities withdraw their claims, file the missing returns and**
14 **provide documentation of filing to the Trustee or obtain relief under §1308.**
15 **Otherwise, the case will be dismissed. LRBP Rule 2084-5.**
- 16 10. Adequate Protection Payments. Trustee objects to confirmation because the
17 requirements of Local Rule 2084-6 (<http://www.azb.uscourts.gov/rule-2084-6>) have
18 not been met. Currently, Trustee is unable to disburse adequate protection payments to
19 Nevada West Financial and Speedy Cash in the amounts of \$115.00 and \$13.00 as
20 listed in the Chapter 13 Plan. Adequate protection payments may not commence until
21 proofs of claim have been filed and written request to commence payments has been
22 received from either Debtor or Creditor's (<http://www.dcktrustee.com/forms.html> see
23 AP commencement notice). This objection may be resolved by ensuring that proofs of
24 claim have been entered on the claims registry and notice to commence adequate
25 protection payments has been filed on the docket.
- 26 11. Unfiled Proofs of Claim. To date the following creditors listed in the Plan have not filed
proofs of claims: **SPEEDY CASH and CASH TIME TITLE LOANS**. Trustee reserves
the right to supplement or amend this paragraph.
12. (Speedy Cash and Cash Time Title Loans). Trustee objects to confirmation as
Debtor's plan proposes to pay Creditors Speedy Cash and Cash Time Title Loans as
secured creditors. However, Creditors have not filed proofs of claim. If no proofs of
claim are filed then no money can be paid to Creditors. This objection may be
resolved by contacting Creditors and requesting Creditors file proofs of claim or by
filing proofs of claim on behalf of Creditors if past the deadline for claims to be filed.
13. Ongoing Monthly Mortgage Payments. Trustee objects to confirmation, because
Debtor is delinquent in the amount of \$1,433.00 for the ongoing monthly mortgage
payment to Wells Fargo Home Mortgage. This objection may be resolved by curing
the delinquency in these payments.

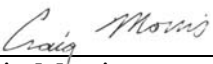
- 1 14. Plan Payments. Debtor has made payments in the total amount of \$1,179.83. Debtor
2 is delinquent in the amount of \$1,208.17, representing 1 month through May 24, 2018
3 **(Trustee also notes the ongoing monthly mortgage payments are delinquent in**
4 **the amount of \$1,433.00 through May 2018. Please note that plan provisions can**
5 **provide a moratorium in plan payments, but it cannot provide a moratorium in**
6 **post-petition mortgage payments).** Trustee will not stipulate to confirmation unless
7 the plan payments are current. Plan payment information may be obtained by logging
8 on to www.ndc.org. In general, the information on this website is 24-hours old.
- 9 15. Plan Payment Start Date. Trustee objects to confirmation as Debtor's plan states the
10 plan payments will start May 25, 2018; however Debtor filed Bankruptcy on April 24,
11 2018 therefore the plan payments start date has been set to start on May 24, 2018
12 pursuant to 11 U.S.C. Sec. 1326(a)(1). This objection may be resolved by amending
13 the plan to state the payment start date.
- 14 16. Documents Requested by Trustee. Any documents that have been requested will need
15 to be provided within 30 days. Such documents should be sent to Trustee with a cover
16 letter outlining and describing the documents. **Any documentation submitted must**
17 **be legible, organized by category and month, totaled and averaged (i.e. "show**
18 **your work"). If Debtor fails to follow this guideline, Trustee will not consider**
19 **any information as being received and a Dismissal Order may be lodged for**
20 **failure to comply. Debtor is also required to submit a written explanation**
21 **justifying the reasonable NECESSITY of the excessive expenses.**
- 22 17. Notarized Affidavit of No Trade Credit. Trustee objects to confirmation because
23 Debtor has not provided her office with a notarized affidavit of no trade credit
24 regarding Debtor's business. This objection may be resolved by providing to Trustee a
25 notarized affidavit of no trade credit within 30 days.
- 26 18. Profit and Loss Statements for the Past 6 Months. Trustee objects to confirmation
because Trustee has not received Debtor's Profit and Loss Statements that were used
to calculate the Chapter 13 Statement of Current Monthly Income and Calculation of
Commitment Period and Disposable Income. This objection may be resolved by
submitting Debtor's Profit and Loss Statements to Trustee.
19. Business Operating Reports. Trustee notes that Debtor is self-employed and required
to file monthly operating reports for self-employment or business in the past 12
months. Local rule 2084-2 requires operating reports to be filed monthly beginning
with the month the petition was filed. **If a debtor timely fails to file the documents,**
then the court may dismiss the case without further notice or a hearing, the case
trustee may upload a dismissal order, or a party in interest may file a motion to dismiss
the case.

- 1 20. Business Questionnaire. Trustee objects to the confirmation because Debtor has not
2 completed a Business Questionnaire regarding self-employment. This objection may
3 be resolved by submitting a Business Questionnaire to Trustee.
- 4 21. Best practices with business related cases. Trustee recommends that counsel have
5 documents on hand related to paragraphs 17-20 above. Such documents should
6 be included in paperwork prepared by debtors prior to the filing of the case.
7 That way counsel has the documents in house and available to provide to the
8 Trustee at the time the case is filed and have the forms available to Debtor to
9 prepare the ongoing business operating reports. The preparation of Forms 122C-
10 2 and schedule I require the documents in paragraph 11 prior to the filing of the
11 case, so those documents absolutely need to be on hand prior to filing.
- 12 22. Liquidation Analysis: At this time Trustee believes that the plan **does** satisfy the
13 liquidation analysis requirements. Trustee reserves the right to amend this conclusion.
- 14 23. Projected Disposable Income: At this time Trustee believes that the plan **does** satisfy
15 the projected disposable income requirement of Sec 1325(b). Trustee reserves the
16 right to amend this conclusion.
- 17 24. Plan Feasibility. The Chapter 13 plan is not feasible as currently proposed. There is a
18 shortfall in funding in the approximate amount of \$4,245.42 (includes 10% Trustee
19 fees) this may be due to proofs of claim that have been filed for more than the plan
20 allows. This calculation does not address additional funding shortfalls that will arise
21 in the event that Debtor misses a plan payment or is late in making plan
22 payments. The plan should be modified to provide sufficient cushion to address
23 reasonably foreseeable events. However, Trustee reserves the right to file an amended
24 evaluation requiring adjustments to the terms of the plan, including an increase in plan
25 funding if necessary, in order to address all timely filed proofs of claim once the
26 claims bar date has passed in this case.
25. Objections to Confirmation. Debtor shall resolve plan objections by submitting a
proposed SOC to Trustee or by setting a hearing on the objection within 30 days of
this objection/evaluation. If Debtor wishes to confirm by stipulation, the stipulation of
the objecting creditor must be obtained in writing prior to submitting a proposed SOC
to Trustee. If the resolution of the objection requires changes which have an adverse
impact on any other creditor under the plan (including a reduction in the amount to
any creditor and/or a delay in payment), the changes must be noticed to creditors and
an opportunity for objection provided. To date Trustee has noted that the following
creditors have filed objections to the Chapter 13 Plan: **NONE**.

1 26. Submission of Proposed SOC. If Debtors propose to confirm the plan through a
2 stipulated order on confirmation, a Notice of Submitting Proposed SOC should be
3 filed with the Court, including a complete copy of the Proposed SOC as an exhibit.
4 The Notice, SOC, and filing receipt may then be transmitted to Trustee via electronic
5 mail (mail@dcktrustee.com) or first class mail. Trustee will not review a proposed
6 SOC if it does not appear on the court's docket.¹ Trustee considers the time for
7 reviewing a proposed Order pursuant to LRBP Rule 2084-13(e), to begin running
8 when all Recommendation conditions are met.

9
10 RESPECTFULLY SUBMITTED this 30th day of May 2018.

11
12 OFFICE OF THE CHAPTER 13 TRUSTEE
13 7320 N. La Cholla #154-413
14 Tucson, AZ 85741

15 By /s/  ASB #011628
16 Craig Morris
17 Staff Attorney for the Chapter 13 Trustee

18 A copy of the foregoing was filed with the
19 court and a copy, together with a receipt of filing,
20 was transmitted via electronic or first class
21 mail this 5/30/2018 to:

22 VERONICA L MARIN-RUBAL
23 1232 W ROSAL AVE
24 APACHE JUNCTION, AZ 85120
25 Debtor

26 BENJAMIN LOREN DODGE
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Attorney for Debtor

By: NC

¹ The alternative to stipulated confirmation is setting a contested confirmation hearing before the judge.